

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company Regarding Year Six (1999-2000) Under Its Experimental Gas Cost Incentive Mechanism and Related Gas Supply Matters.

Application 00-06-023

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION TO REASSIGN PHASE 2 ISSUES**

1. Summary

The Southern California Generation Coalition (SCGC) moves to reassign Phase 2 issues in this proceeding to Application (A.) 01-06-027, the proceeding in which the Commission will examine the Year Seven performance of Southern California Gas Company (SoCalGas) under its Gas Cost Incentive Mechanism (GCIM). The motion is opposed by SoCalGas, the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN), which in July proposed a settlement of the Phase 2 issues. Because the parties are well along in dealing with the Phase 2 issues in this proceeding, and because a reassignment would postpone a decision on these issues for several months, the motion of SCGC is denied.

2. Background

The GCIM is a ratemaking mechanism designed to provide regulatory controls superior to reasonableness reviews. It was adopted by the Commission in Decision (D.) 94-03-076. Under the GCIM, SoCalGas is required to file an

application by June 15 of each year to address the reasonableness of its operations and provide information regarding GCIM results for the prior 12 months ending March 31.

This proceeding is the sixth such application filed by SoCalGas. In a Scoping Memo dated August 21, 2000, Commissioner Bilas ruled that Commission concerns about extending and modifying the GCIM would be addressed in Phase 2 of this proceeding. The Scoping Memo was affirmed by the Commission in D.01-05-002, issued on May 3, 2001, which closed Year Six considerations of the GCIM and opened Phase 2 to consider continuation and modification of the GCIM.

In its audit of Year Six results, ORA concluded that the GCIM continues to provide benefits to the natural gas procurement customers of SoCalGas. ORA proposed changes in the program for Year Seven and beyond. Other recommendations for modification of the GCIM were made by the Commission's Energy Division in an evaluation report submitted on January 4, 2001. The Energy Division evaluation was required by the Commission in D.00-06-039.

On July 5, 2001, SoCalGas, ORA and TURN jointly moved for adoption of a settlement agreement resolving Phase 2 issues. In view of this, the procedural schedule for Phase 2 was modified. Responses to the settlement motion were filed on August 6, 2001, by SCGC, by the California Industrial Group and California Manufacturers & Technology Association, and by Southern California Edison Company.

The settling parties' reply to responses is due on August 21. Testimony of the settling parties is to be served on September 21. Testimony of nonsettling parties is due on October 19. Rebuttal testimony is to be served on November 9,

and an evidentiary hearing will be conducted on November 27-30. A decision on Phase 2 issues is anticipated soon thereafter.

3. Motion to Reassign

In its motion to reassign, SCGC argues that the Year Seven data produced in A.01-06-027 is required in order to deal with the issues of whether the GCIM will continue with or without modification for Year Seven and beyond. However, that data is available and has been since June 15, 2001. Under the revised schedule to consider the proposed settlement agreement, SCGC will have had more than four months to conduct discovery and analyze Year Seven data before its testimony is due to be filed in this proceeding.

The Commission in D.01-05-002 decided that the issues of whether to continue and whether to modify the GCIM would be dealt with in Phase 2 of this application, and the parties have proceeded on that basis. Substantial comments already have been filed. Transferring Phase 2 issues to A.01-06-027 would unnecessarily postpone a decision on continuation and modification for several months, since the required ORA audit of Year Seven results is not due until October 31, 2001, with testimony to follow. If Phase 2 issues were transferred to A.01-06-027, and roughly the same schedule were adopted for filed testimony, hearings and briefs, the Phase 2 issues would not be resolved until at least the middle of next year, after Year Eight had ended (on March 15, 2002) and well into Year Nine of the GCIM.

As the Commission has held, the appropriate forum for raising concerns with the GCIM is in Phase 2 of this proceeding, which has been opened specifically for that purpose. By contrast, A.01-06-027 deals primarily with ORA's audit of the SoCalGas annual report, calculations and performance

pursuant to the GCIM, either as that mechanism now exists or as it is modified in this proceeding.

Finally, SCGC's motion is procedurally defective. The Scoping Memo issued by Commissioner Bilas on August 21, 2000, was not appealed under Rules 6(a)(3) and 6.4 of the Rules of Practice and Procedure. The time for filing a Rule 85 application for rehearing of D.01-05-002, the decision affirming the Scoping Memo, has passed. As SoCalGas, ORA and TURN assert, SCGC's motion constitutes a collateral attack on D.01-05-002 that is not contemplated by Commission rules.

SCGC notes that the Phase 2 proceeding is unlikely to be resolved within 18 months of commencement (December 15, 2001), as directed in the Scoping Memo pursuant to Pub. Util. Code § 1701.3. That concern is speculative at this point. In any event, reassigning Phase 2 issues to a proceeding that will take even longer to resolve is hardly in keeping with the aim of Section 1701.3.

SCGC in its motion outlines its substantive positions as to the SoCalGas proceedings. It would be inappropriate to address those issues in this ruling, since they are likely to be raised and dealt with in the Phase 2 proceeding, as well as in A.01-06-027.

ACCORDINGLY, for the reasons set forth herein, the Southern California Generation Coalition Motion to Reassign GCIM Continuation Issue to Application 01-06-027 (GCIM Year 7) is denied.

Dated August 14, 2001, at San Francisco, California.

/s/ GLEN WALKER

Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Reassign Phase 2 Issues on all parties of record in this proceeding or their attorneys of record.

Dated August 14, 2001, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.